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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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APRIL SUMMERS,

Plaintiff,

- against -

MEMORANDUM & ORDER

19-CV-1084 (RRM) (LB)

SUFFOLK COUNTY SHERIFF ERROL D. TOULON,
PHYSICIAN ASSISTANT JEANETTE, R.N. NURSE
JANE DOE, R.N. NURSE JANE DOE, LIUTENANT
JOHN DOE, C.O. ALEX MYLETT, BADGE #1378,
C.O. PETER LAMBORI, BADGE #1319, SGT. JOHN
DOE, DR. GERASI,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

On February 20, 2019, *pro se* plaintiff April Summers, previously incarcerated at Suffolk County Correctional Facility (“Suffolk”), commenced this action against defendants alleging, *inter alia*, excessive force, sexual assault, and denial of medical care in violation of her constitutional and civil rights while incarcerated at Suffolk. (Compl. (Doc. No. 1).)¹ The Clerk of Court issued a deficiency letter notifying Summers that the complaint referred to additional pages that were not attached. (See Doc. No. 4.) On March 4, 2019, Summers responded by sending a letter confirming her receipt of the deficiency letter, and attaching a new complaint, which she characterized as a “duplicate” of her previously submitted complaint, except that it included separate lined paper detailing “the complete facts of [the] incident.” That letter and its attachments were filed under the distinct case of *Summers v. Mylett, et al.*, No. 2:19-CV-1268 (RRM) (LB). On April 5, 2019, the cases were reassigned to the undersigned.

¹ Summers also filed three other cases concerning her incarceration at Suffolk. See *Summers v. Suffolk Cty. Sheriff Dep't*, No. 2:18-CV-7472 (RRM) (LB); *Summers v. Mylett*, No. 2:19-CV-1268 (RRM) (LB); *Suffolk Cty. Sheriff Dep't*, No. 2:19-CV-136 (RRM) (LB).

The Court has examined the complaints and finds that the instant complaint is in fact a duplicate of the complaint filed in *Summers v. Mylett, et al.*, No. 2:19-CV-1268 (RRM) (LB). The complaint in 2:19-CV-1268 includes all of the necessary pages missing from this action. “As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138 (2d Cir. 2000) (noting that in exercising this discretion, federal courts are required to “consider the equities of the situation” (citations omitted)). The Second Circuit has held that “plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time.” *Id.* at 139.

CONCLUSION

Accordingly, the Court grants plaintiff’s request to proceed *in forma pauperis*, but this action is dismissed without prejudice to Summers pursuing her claims through the action filed in *Summers v. Mylett, et al.*, No. 2:19-CV-1268 (RRM) (LB).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppededge v. United States*, 369 U.S. 438, 444–45 (1962). The Clerk of Court is respectfully directed to enter judgment in accordance with this Order, mail a copy of this Memorandum and Order and the judgment to Summers, note the mailing on the docket, and close this case.

SO ORDERED.

Dated: Brooklyn, New York
Mr 21, 2019

s/ Roslynn R. Mauskopf
ROSLYNN R. MAUSKOPF
United States District Judge